

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL NOTE**

**HB 1898 - SB 2601**

February 29, 2016

**SUMMARY OF BILL:** Requires all public institutions of higher education to notify students of their right to be represented by legal counsel of their choosing at disciplinary hearings at least 48 hours prior to the hearing. Authorizes students to view evidence that will be presented in support of proposed disciplinary actions at least 48 hours prior to the hearing.

**ESTIMATED FISCAL IMPACT:**

**NOT SIGNIFICANT**

Assumptions:

- Based on information provided by the Tennessee Board of Regents (TBR); there are approximately 500 student hearings per TBR university each year which may result in either major or minor disciplinary actions.
- The average number of disciplinary hearings across all TBR community colleges and Tennessee Colleges of Applied Technology (TCAT) is unknown, but is reasonably estimated to exceed 1,000 annually statewide.
- While the total number of student disciplinary hearings across the University of Tennessee (UT) system is unknown; it is reasonably estimated that there are more than 500 annually.
- Based on information from TBR, it is estimated that five to ten percent of all disciplinary hearings at each university annually require a TBR lawyer to be present. It is assumed that this percentage is less at community colleges and TCATs since students at these institutions do not live on campus.
- Based on information from UT, approximately 30 disciplinary hearings annually require a UT lawyer to be present.
- There are currently two types of disciplinary hearings at UT and TBR institutions; regular and contested case.
- Under the rules of a regular disciplinary hearing, the provisions of the Uniform Administrative Procedures Act do not apply. Students are not represented by counsel.
- The majority of hearings held on UT and TBR campuses are regular disciplinary hearings for minor infractions.
- A contested case hearing is generally defined by UT and TBR as a hearing which may result in the suspension or expulsion of a student for disciplinary reasons. Contested case

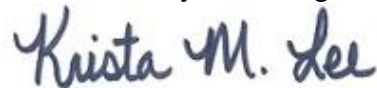
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hearings must be held in accordance with the contested case provisions of the Uniform Administrative Procedures Act, as codified in Tenn. Code Ann. § 4-5-301, et seq. All parties in a contested case hearing may be represented by counsel if their hearing is held in accordance with the foregoing statutory provisions.

- If a student chooses to bring a lawyer to a contested case disciplinary hearing, it is current practice for TBR and UT to be represented by counsel as well. TBR universities are represented by an in-house counsel while community colleges and TCATs are represented by counsel from TBR's Central Office.
- UT is represented by lawyers from each institution or the system office.
- Authorizing students to have legal counsel to represent them at disciplinary hearings that are not considered contested cases under the provisions of the Uniform Administrative Procedures Act may result in more students choosing to bring legal counsel to represent them at such hearings; however, it is assumed that a majority of students will continue to not exercise this option since the infraction for which a majority of hearings are held do not rise to the level of expulsion or suspension.
- Though the precise increase in the number of students who will choose to have legal counsel represent them is unknown; it is reasonably estimated that any increase can be handled by existing staff of either TBR or UT without the need for additional personnel or a significant increase in other expenditures.
- The TBR Central Office, Office of General Counsel, currently employs six general counsels or associate general counsels.
- Each TBR university currently employs at least one general counsel with a majority of universities employing more than one.
- The University of Tennessee currently employs 10 general, deputy, or associate general counsels who are based at the University of Tennessee, Knoxville; four associate general counsels in Memphis; the general counsel position at the University of Tennessee-Chattanooga (UTC) is currently vacant; however it is reasonable to assume that the General Counsel's office at UTC normally employs at least one counsel.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

/rbp